

10 Oct 47

10 OCTOBER 1947

I N D E X
Of
WITNESSES

<u>Defense' Witnesses</u>	<u>Page</u>
ITAGAKI, Seishiro (resumed)	30461
Cross (cont'd) by Judge Ny1	30461
<u>MORNING RECESS</u>	30483
Cross (cont'd) by Judge Ny1	30484
<u>NOON RECESS</u>	30499
Cross (cont'd) by Judge Ny1	30500
Redirect by Mr. Mattice	30520
<u>AFTERNOON RECESS</u>	30521
Redirect (cont'd) by Mr. Levin	30523
Questions by the President of the Tribunal, Sir William Webb	30523
(Witness excused)	30526
SHIONO, Suehiko	30534
Direct by Mr. Levin	30534
(Witness excused)	30539
USAMI, Uzuhiko	30539
Direct by Mr. Levin	30539
(Witness excused)	30543

10 OCTOBER 1947

I N D E X
Of
WITNESSES
(cont'd)

Defense' Witnesses

Page

OGAWA, Yataro

30544

Direct by Mr. Levin

30544

(Witness excused)

30546

ISHIWATARI, Sotaro (recalled)

30547

Direct by Mr. Levin

30547

(Witness excused)

30549

10 OCTOBER 1947

I N D E X
of
WITNESSES
(cont'd)

30,460

Defense' Witnesses

	<u>Page</u>
OGAWA, Yataro	30544
Direct by Mr. Levin	30544
(Witness excused)	30546
ISHIWATA, Sotaro (recalled)	30547
Direct by Mr. Levin	30547
(Witness excused)	30549

10 OCTOBER 1947

I N D E X

Of

EXHIBITS

<u>Doc.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
2653	3320		Affidavit of SHIONO, Suehiko		30536
2611	3321		Affidavit of ISHIWATARI, Sotaro		30548

1 Friday, 10 October 1947

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, all Members sitting,
14 with the exception of: HONORABLE JUSTICE R. B.
15 PAL, Member from India, not sitting from 0930 to
16 1600; HONORABLE JUSTICE LORD PATRICK, Member from
17 the United Kingdom of Great Britain, HONORABLE
18 JUSTICE HENRI BERNARD, Member from the Republic of
19 France and HONORABLE JUSTICE E. H. NORTHCROFT,
20 Member from the Dominion of New Zealand, not sitting
21 from 1330 to 1600.

22 For the Prosecution Section, same as before.

23 For the Defense Section, same as before.

24 - - -

25 (English to Japanese and Japanese
to English interpretation was made by the
Language Section, IMTFE.)

D
u
c
a
&
S
p
r
a
t
t

1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: Judge Nyi.

4 - - -

5 S E I S H I R O I T A G A K I, an accused, resumed
6 the stand and testified through Japanese inter-
7 preters as follows:

8 CROSS-EXAMINATION

9 BY JUDGE NYI (Continued):

10 Q Mr. ITAGAKI, are you going to make another
11 effort to identify the decisions of the Imperial
12 Conference, or are you going to deliberately refuse?

13 THE PRESIDENT: There is no need to inter-
14 vene, Mr. Mattice. That question is improper.

15 Q I ask the witness to identify it.

16 A There being no grounds upon which I could
17 make any identification, I cannot identify it. I am not
18 intentionally trying to refuse to identify this docu-
19 ment.

20 Q Do you remember what were the decisions
21 reached that day?

22 A Items relating to the adjustment of new
23 relations between Japan and China.

24 Q Was it decided that was the object of estab-
25 lishing -- Language Section, page 28 -- was it decided

1 that with the object of establishing a new order in
2 East Asia the following conditions should be ful-
3 filled in the settlement of the incident:

4 Was it, first, general cooperation between
5 Japan, Manchukuo, and China; second, a special position
6 for Japan in North China and Inner Mongolia; and,
7 third, a special position for Japan along the lower
8 reaches of the Yangtze River; fourth, a special posi-
9 tion for Japan on Hainan Island and other islands along
10 the South China coast; was that correct?

11 A That is not accurate. In my recollection the
12 statement with regard to the establishment of the Co-
13 Prosperity Sphere of Greater East Asia, or something
14 to that effect, in that sense, was set forth in the
15 KONOYE statement of the 3rd of November. That is my
16 recollection.

17 Q Were the details for the execution of this
18 plan also laid down in the decision of the Imperial
19 Conference?

20 A I do not recall that the details as just re-
21 ferred to by you were immediately carried out as they
22 were.

23 Q To refresh your mind, didn't these details
24 provide for the creation of a new government in China
25 on the principle of cooperation among separate regimes?

1 A That is not so.

2 Q Didn't these details provide for Japan's
3 stationing of troops in North China and Inner
4 Mongolia for defense against communism?

5 A My recollection of these matters is as I
6 have already set forth in my affidavit. The first
7 of the points was the maintenance of the good
8 neighbor relations and friendship; cooperation
9 against communism -- that is second; third, economic
10 cooperation and --

11 Q That is much too general. Let me ask you
12 specific things. Wasn't it decided that Japan would
13 send advisers to the new Central Government and to
14 the various local regimes which were to be set up in
15 the special areas?

16 A No, that is not the case at all. The policy
17 decided upon at this conference was what might be
18 called the principles for the adjustment of new rela-
19 tions between Japan and China, principles which may
20 even serve as conditions for peace between the two
21 countries. These facts appear in my affidavit just
22 after the portion to which I referred just awhile ago.

23 Q Was it not decided that China would have to
24 compensate Japanese subjects for their economic and
25 financial losses during the China Incident?

1 A It was exactly opposite, and I have that
2 set forth, the true facts on that, in my affidavit.
3 Japan was not going to take any reparations or in-
4 demnifications of any kind; Japan entertained no
5 territorial aggrandizement; and Japan was firm on
6 its stand of respecting the sovereignty of China.
7 There was no idea entertained whatsoever as to
8 claiming any form of indemnity. Japan was determined
9 not only to respect the sovereignty and territorial
10 integrity of China, but also prepared to go even
11 further of relinquishing extra-territorial rights,
12 and even going as far as effecting the rendition of
13 concessions. These facts which I have now stated
14 to you have been clearly set forth in my affidavit.

15 Q There is no need of going any further than
16 what I asked you. Let me ask you again: was it
17 decided that in view of the close economic coopera-
18 tion between Japan, Manchukuo, and China, the
19 economic activities and interests of third powers
20 would have to be restricted?

21 A Absolutely no.

22 Q Did not HIRANUMA make a speech and the
23 Foreign Minister make a reply in this conference?
24

25 A Aren't you confusing this conference with
a meeting of the Privy Council?

1 Q At the meeting of the Imperial Conference
2 of November 30, 1938?

3 A Such a matter is hardly possible at an
4 Imperial Conference.
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 JULGE NYI: May the witness be shown IPS
2 document 3090-B.

3 Q As you will notice, this is written on the
4 Imperial Household Ministry's stationery, as the minutes
5 of the Imperial Conference are to be.

6 A It appears that the writing is a recent one
7 on very poor quality paper, as I see it.

8 Q Is it not a copy made of the minutes and
9 proceedings of this conference?

10 A As stenographers cannot enter the conference
11 room of the Imperial Conference, no stenographic tran--
12 scripts can be made.

13 Q Do you find your name near the bottom of this
14 document as one of the persons who attended this
15 conference?

16 A Which sheet are you referring to, Mr. Prosecutor

17 Q IPS document 3090-B, near the bottom.

18 A Is this what you are referring to (indicating)?

19 Q Yes. Do you see the name, War Minister?

20 A Yes, I notice my name.

21 THE INTERPRETER: Before that, the witness
22 replied: "This is also very poor quality paper."

23 Q Do you find that this is a correct copy of
24 the minutes and proceedings?
25

 A I cannot identify it or -- I can't possibly

1 identify it.

2 JUDGE NYI: May the witness be shown again
3 IPS document 3090-C.

4 Q Do you find in it a speech made by HIRANUMA?
5 Did you not say that it was impossible?

6 A I said that that was not possible in accordance
7 with precedents.

8 Q Did you find him making a speech here in
9 this document?

10 A This document, too, like the previous one,
11 appears to be written on the stationery of the Imperial
12 Household Department, but it is written on poor quality
13 paper with a pen, and I am hard put, from what I see
14 in this document, to give you any correct judgment as
15 to what kind of a document this actually is.

16 Q But do you see, in the substance, a speech
17 made by HIRANUMA, and the reply made by the Foreign
18 Minister?

19 A There may be, but I am trying to tell you
20 that I do not place any trust in this document.

21 Q Do you remember that HIRANUMA stated that the
22 activities of the Chinese troops in the Japanese-
23 occupied areas would have to be suppressed, or that
24 otherwise the decisions of the Imperial Conference could
25 not be realized?

1 A I have no recollection of that.

2 Q Do you remember that he stated that, as regards
3 the establishment of a new Chinese regime, this should
4 outwardly be done by the Chinese themselves, but in
5 reality it would depend on Japan?

6 A As I have been saying from some time ago, such
7 matters are not in my recollection.

8 Q Do you remember that he stated that in the
9 areas where Japanese troops were to be stationed, the
10 administration would have to remain under Japanese super-
11 vision?

12 A As I have been telling you repeatedly from
13 some time ago, there is absolutely nothing in my recol-
14 lection as to what Baron HIRANUMA said.

15 Q Do you also remember that he stated in case
16 third powers would oppose Japan in the execution of her
17 plans, it would be necessary to deal with them reso-
18 lutely?

19 A I do not remember.

20 Q Do you remember that there was a Five Ministers'
21 Conference on June 6, 1939, three days after you assumed
22 the post of War Minister?

23 I withdraw that last sentence; that was a mis-
24 take.

25 Do you remember there was such a conference?

1 A That is not in my recollection.

2 Q Let me remind you by suggesting to you the
3 substance of it. Was it decided in this conference
4 that the constituent elements of a new central govern-
5 ment shall be Wang, Wu, the existing regimes, and also
6 the Chungking Government, provided that it change its
7 mind and be reformed?

8 A On June 6? I do not think the Five Ministers'
9 Conference had been initiated yet at that date.

10 Q '39, not '38. Was there such a decision
11 reached in this conference?

12 A June 6, 1939?

13 Q Yes.

14 A No, that is not in my recollection.

15 Q I will refresh you further. That was the
16 time when Wang Ching-wei arrived in Tokyo. Does
17 that help your recollection?

18 A I don't know about any decisions reached in
19 the early part of June of that year. In my recollection
20 Wang Chao-ming arrived in Tokyo in the first part of
21 June, and I suppose if that was the case, the con-
22 ference would be held prior to his arrival. But I
23 have no recollection.

24 Q Do you remember that after his arrival
25 there was a second conference, and decided the matter

1 which he related to you?

2 A I do not remember.

L
e
f
f
e
r
&
W
o
l
f

1 Q Now, during the Changkufeng Incident in
2 July 1938, was TOJO the Vice-Minister?

3 A Yes.

4 Q Was it not a fact that the Japanese Naval
5 and Army High Command had intelligence reports to the
6 effect that at the time there were no indications that
7 Russia was preparing for war against Japan?

8 A May I have the question repeated in Japanese?
9 (Whereupon, the Japanese court reporter
10 read.)

11 A (Continuing) There wasn't any -- there was
12 no clear-cut report that there was none; that is, that
13 Russia had no -- was not preparing for war.

14 Q Not clear-cut. Do you have some report at all?

15 A I think there were various reports, but I do
16 not recall anything in particular.

17 Q Was it not also a fact that the Kwantung Army
18 had this following estimate of the situation: First,
19 that the Soviet forces must be compelled to withdraw
20 from Changkufeng, and for this the use of force would
21 be necessary; and second, even if Japan would resort
22 to the use of force, Russia would not enlarge the
23 Incident? Was that the estimate of the situation?

24 A That was not within the knowledge of the
25 Kwantung Army because the Incident occurred on the Korean

1 border, which would be under the jurisdiction of the
2 Korean Army. I have never heard of it.

3 Q Was it in your knowledge, personal knowledge?

4 A My position has already been set forth in my
5 affidavit. I was very much surprised.

6 Q Was it not a fact that the Kwantung Army
7 Headquarters persistently urged the use of force to the
8 General Staff Headquarters?

9 A That is absolutely not the case. The Japanese
10 attitude was clearly decided upon by the Cabinet.

11 Q Was it not a fact that you and the Chief of
12 General Staff fully agreed with the report and
13 recommendation of the Kwantung Army and both of you
14 sought an Imperial audience on the 21st for the purpose
15 of obtaining the sanction of the Emperor?

16 A The facts are entirely otherwise.

17 Q What do you mean by "otherwise"? It couldn't
18 be otherwise in this case. Were you not told by the
19 Emperor through his Chief Aide-de-Camp that if your
20 intention of seeing him was for obtaining sanction for
21 the use of force, then you need not come?

22 A That, I do not know at all.

23 Q Do you mean you do not recall there was not
24 such a thing, an audience with the Emperor, which you
25 cannot say you forget?

1 A I do not know on what grounds you are basing
2 such contentions as contained in your question, but
3 our attitude at that time was decided upon definitely
4 by the Cabinet. The policy adopted was non-expansion
5 of the Incident, but in view of the fact that actually
6 the Soviet Union took an aggressive action against us,
7 there was extreme danger in the situation and we had
8 no alternative but to take necessary measures to meet
9 that aggressive action.

10 Q You are evading my question. I am asking you
11 whether there was such an Imperial audience. It could
12 be answered "yes" or "no."

13 A I am not trying to evade your question at all.
14 You asked me whether there was an audience on such and
15 such a matter and that is why I said there was none.
16 Of course, I have had audiences on other questions.

17 Q Your first answer was you do not know. That
18 needs clarification. And now you answer me that there
19 was none; is that right?

20 A Let's get -- let's look into this matter. You
21 asked me a question, whether or not an audience was
22 held --

23 THE INTERPRETER: Will you strike that out,
24 please.

25 A (Continuing) You asked me whether the Chief

1 of the Army General Staff and I, together had an
2 audience with the Emperor. I said "no." I denied that.

3 Q Did you, after that, insist that you should
4 have an audience and that was granted?

5 A There was no need to insist.

6 Q Was an audience granted at all?

7 A Yes, I had an audience alone with the Emperor
8 at which I reported to him the policy decision on the
9 Changkufeng Incident as laid down by the Cabinet.

10 Q Were you severely reprimanded by the Emperor
11 on that occasion for telling a deliberate falsehood;
12 and that falsehood consisted of assuring the Emperor
13 that the Foreign and the Navy Ministers had agreed with
14 you on the policy of using force in Changkufeng?

15 A Well, the subject matter is entirely different.

16 Q Were you reprimanded at all, let me ask you?

17 A Well, let me explain. Before I made my report,
18 to the Throne, Foreign Minister UGAKI had an audience
19 at which he reported to the Throne. The Throne addressed
20 an inquiry to me saying "Isn't there some difference
21 between the report as made by Foreign Minister UGAKI
22 and by the War Minister?" Thereupon, although Foreign
23 Minister UGAKI and I had already previously arranged
24 our report to the Throne and there could not possibly
25 be any difference between the reports made by us, because

1 the Throne addressed such an inquiry pointing out that
2 there seemed to be some difference, I assured the
3 Emperor that I would look into the matter and left
4 the audience.

1 Q What did the Emperor say?

2 A As I have already stated to you.

3 Q Was he satisfied with your answer?

4 A The Emperor addressed the question to me,
5 saying, "Isn't there some difference," and I replied
6 that, "I do not think there is any difference, but to
7 make sure, I will look into the matter," and thereupon
8 left the audience.

9 Q There is no need of repeating your answer.
10 Let me ask you: Did the Emperor state to you
11 that, "Hereafter you may not move one soldier" without
12 his command?

13 A No.

14 Q Did not the Emperor, in an excited countenance,
15 say to you that, "The actions of the Army in the past
16 have been abominable"? He continued, "Speaking of the
17 Loukiaotou case in the Manchukuo Incident and the Marco
18 Polo Bridge at the beginning of the China Incident,
19 there was absolutely no obedience to central orders."

20 A That was not so, absolutely not so.

21 Q Listen to my whole statement. Did he not
22 continue, "There were infrequent instances when the
23 methods used have been arbitrary and sneaky, which is
24 altogether improper as my Army," and he said, "I feel
25 it is abominable in various ways. Nothing like that

1 must happen this time"?

2 A That was not so.

3 Q Was his reprimand so strong that you were
4 humiliated, and in the office of the Chief Secretary
5 of the Lord Keeper of the Privy Seal, you said with
6 tears in your voice that, "I can never look into the
7 Emperor's face again. I would definitely like to
8 resign"?

9 A Where did you get such a report? What is
10 your ground for asking me such a question? Tell me
11 very definitely where you got that fact.
12

13 Q This is no occasion for you to ask me. I am
14 asking you whether such are the facts. I am not --

15 A With regard to the Emperor's words, I have
16 already stated all, everything, a little while ago.

17 Q Now, with regard to the Nomonhan Incident,
18 you stated in item G, on page 40 of your affidavit,
19 that after deliberation with the Supreme Command and
20 with the consent of the Cabinet, you endeavored to
21 bring about a speedy settlement of the Nomonhan Affair.
22 Is it not a fact that you did not seek the approval or
23 advice of the Five Ministers Conference or the Cabinet
24 until after the Nomonhan conflict had been near its
25 conclusion?

A That was not so.

1 Q Do you recall that on some occasion you told
2 the then Prime Minister HIRANUMA that hostilities
3 should continue?
4

5 A Absolutely not.

6 Q When you finally took the matter up with the
7 Cabinet, did not Admiral YONAI state that it was a
8 very distasteful situation to start the Incident with-
9 out mentioning it and then bring the problem after the
10 Army had bungled it?

11 A Not so at all.

12 Q Did you, as War Minister, consider the actions
13 of General UEDA, Commander of the Kwantung Army, taken
14 in connection with the Nomonhan Incident, to be right?
15 Did you approve his action?

16 A At first, I approved of it whole-heartedly.
17 Afterwards, I did not.

18 Q Was he relieved from the post of Commander of
19 the Kwantung Army, because after the rout of the Japa-
20 nese forces it was deemed impossible to continue mili-
21 tary operations?

22 A Yes, but that was after I was no longer in
23 office as War Minister.

24 Q Did you hold the post of War Minister during
25 the Lake Khasan Incident?

A Yes.

1 JUDGE NYE: May it please the Tribunal, in
2 connection with the Nomonhan Incident, we shall cite
3 the following references in lieu of further questions:
4 record 22,599, 23,057, exhibit 766, record 2,556.

5 Q With regard to the British concession in
6 Tientsin, was it a fact that five demands were pre-
7 sented to the British authorities there in July, 1939,
8 including the handing over of fifty million yuan in
9 legal tender to the Provisional Government in Peking?

10 A Who made the demand and to whom?

11 Q Japanese military, with the approval, with
12 knowledge of the authorities in Tokyo, to the British
13 authorities in Tientsin, with knowledge of the British
14 Ambassador in Tokyo.

15 Let me refresh your memory. Did you have
16 another Imperial audience in connection with this topic?

17 A Are you withdrawing the previous question?
18
19
20
21
22
23
24
25

K
n
a
p
p
&
K
a
p
l
e
a
u

1 Q I haven't withdrawn it; I am only reminding
2 you about this second question.

3 A Then, let me reply to your first question.
4 Such diplomatic negotiations are not handled by the
5 army. As I have already quite clearly set forth in
6 my affidavit, this local incident which took place in
7 Tientsin was transferred by Japanese-British under-
8 standing to Tokyo, where negotiations were conducted
9 through diplomatic channels.

10 In reply to your second question, I have
11 absolutely no recollection.

12 Q Do you remember that there was this condition:
13 the demand of the handing over of the 45 million yuan
14 in legal tender?

15 A The facts are as follows: In the French Con-
16 cession in Tientsin there was a Chinese Bank of Communi-
17 cations. of which I am sure you are familiar, called
18 the Chiaotung. In this bank, to which I have referred,
19 namely, Chiaotung, or the Bank of Communications, there
20 was deposited -- I don't know whether the figure was
21 45 million or not but some amount of money.

22 The provisional government in Peking desired
23 to inspect this fund, but in spite of its repeated re-
24 quests the concession authorities refused the requests.
25 This money was federal reserve notes. It was natural

1 for the provisional government in Peking, which was
2 responsible for the administration of all North China,
3 to have these federal reserve notes transferred to it.

4 Q Now let me ask you this: What did this have
5 to do with the Japanese army?

6 A Absolutely no connection.

7 Q You seem to be very well aware of it, and the
8 demand came from the army. Don't you remember that?

9 A This was a problem of the provisional govern-
10 ment.

11 Q You said the French Concession. Wasn't it the
12 British Concession?

13 A Perhaps you are more familiar. My recollec-
14 tion is that it was the French Concession.

15 Q Now, if this was a matter for the provisional
16 government, as you have stated, why was it discussed
17 in Tokyo?

18 A Of course there were various questions, such
19 as the question of maintaining law and order, and the
20 question of economics, and this matter was included in
21 the category of economic problems. How it got there I
22 don't know.

23 Q You stated that you did not recall the Imperial
24 audience in connection with this problem. Let me refresh
25 your memory. Did not the Emperor on or about the 7th

1 of July, 1939, summon you to the palace and inquire
2 about the reason for your demand in connection with
3 the handing over of the 45 million yuan?

4 A By the way, the grounds for your question --
5 is that HARA-KUMA, that is to say, HARADA, Kumao?

6 Q Never mind about the source of my information.
7 I am asking you the question and you answer me accord-
8 ing to the facts.

9 A Is that so? Then, there are absolutely no
10 facts of such a kind.

11 Q Was it a fact that you were again rebuked by
12 the Emperor?

13 A Absolutely not.

14 JUDGE NYI: May it please the Tribunal, in
15 lieu of cross-examination on the problem of POW's, the
16 prosecution will cite references.

17 Andaman and Nicobar Islands, exhibit 1614 at
18 page 1319, exhibit 1617 to 1622 at pages 13,193-13,200.

19 About Borneo, exhibit 1655-8 at pages 13,312-
20 13,316, exhibit 1668-1675 at pages 13,420-13,449,
21 exhibit 1686 at page 13,495, exhibit 1691 at page 13,504,
22 page 13,344, and following.

23 About Java, exhibit 1712 at page 13,629, ex-
24 hibit 1720-1722 at pages 13,644-13,647, exhibit 1758-
25 1759 at page 13,700 and 13,537.

1 About Singapore and Malaya, exhibit 1512-1518
2 at pages 13,913-12,934 and also pages 5418-5491.

3 About Sumatra, exhibit 1769 at page 13,784,
4 exhibit 1778 at page 13,820 and also pages 13,471,
5 13,573 and following, and 13,756.

6 Shall I continue on with another topic?

7 THE PRESIDENT: We will recess for fifteen
8 minutes.

9 (Whereupon, at 1045, a recess
10 was taken until 1100, after which the
11 proceedings were resumed as follows:)

12 THE PRESIDENT: The following correction? It reads: "In
13 South China, to hear the news of Major General DOHI-
14 SHI and ITAGAKI is something like mentioning a tiger
15 and the people turn pale."

16 A Yes, I do.

17 Q That report was made -- received by the
18 Special Service of the Kwangtung Army on August 27,
19 1934. Were you at that time in the service of the
20 Kwangtung Army, August 27, 1934?

21 A August, 1934. Well, I think I have already
22 stated that in my affidavit, but I think at about that
23 time I had concluded my travel abroad and was attached
24 to Kwangtung Army Headquarters, but I do not recall
25 whether I was there at that time or not.

G
r
e
e
n
b
e
r
g
&
B
a
r
t
o
n

1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Judge Nyi.

4 BY JUDGE NYI (Continued):

5 Q Mr. ITAGAKI, do you recall that the prosecu-
6 tion produced, on September 17, an intelligence report
7 made by the Special Service Organ of the Kwantung Army,
8 exhibit 3177A, which reads in part as follows: "The
9 mere mention of the names of DOHIHARA and ITAGAKI is
10 enough to make the people in South China turn pale"?
11 And do you also remember that the language section
12 had made the following correction? It reads: "In
13 South China, to hear the names of Major General DOHI-
14 HARA and ITAGAKI is something like mentioning a tiger
15 and the people turn pale."

16 A Yes, I do.

17 Q That report was made -- received by the
18 Special Service of the Kwantung Army on August 27,
19 1934. Were you at that time in the service of the
20 Kwantung Army, August 27, 1934?

21 A August, 1934. Well, I think I have already
22 stated that in my affidavit, but I think at about that
23 time I had concluded my travel abroad and was attached
24 to Kwantung Army Headquarters, but I do not recall
25 whether I was already at my post of duty at that time

1 or not.

2 JUDGE NYI: May it please the Tribunal, be-
3 fore concluding my cross-examination the prosecution
4 has one more subject to pursue, the Tri-Partite Pact.
5 It is an important subject and could be dealt with
6 separately. It is a phase on which my learned friend,
7 Mr. Tavenner, has done considerable work. Possibly
8 with some saving of time I respectfully request the
9 Tribunal to permit Mr. Tavenner to continue the
10 cross-examination in respect of that particular sub-
11 ject. If permission of the Tribunal is required in
12 this case, I respectfully ask for it.

13 THE PRESIDENT: Mr. Mattice.

14 MR. MATTICE: ~~Defense~~ objects to the change of
15 horses in the middle of the stream. The defense has
16 not been permitted to do so. I understand, however,
17 that the Court may, if it deems it advisable, permit
18 it, but we raise that objection.

19 JUDGE NYI: May I suggest that this is sug-
20 gested in the interest of saving time.

21 MR. MATTICE: May I suggest that in that vein
22 someone else ought to conduct all the cross-examination,
23 if it is a matter of saving time.

24 JUDGE NYI: In that respect, we can judge by
25 the size of the affidavit with regard to that particu-

1 lar subject.

2 THE PRESIDENT: Well, we are reluctant, I am
3 sure, in any circumstances to permit a change of this
4 kind. Similar applications have been made on the
5 part of the defense, and I recollect rightly, I think,
6 they were refused. However, the matter is one for
7 the whole Tribunal to consider. We must be consist-
8 ent.

9 MR. FURNESS: If the Court please, other
10 defense counsel wish to register their objection to
11 any such thing. We made the same type of request on
12 the same grounds and have been consistently refused.
13 We have asked that the cross-examination or direct
14 examination be divided between American and Japanese
15 counsel and have been refused. Since this may create
16 a precedent, we wish to register our emphatic object-
17 ion.

18 JUDGE NYI: As far as we can remember, this
19 is the first time that any particular subject is
20 separated from the rest of the cross-examination.
21 Therefore --

22 THE PRESIDENT: I think the defense applica-
23 tion did contemplate a separation of subject matter.
24 However, at this stage, of course, we are most anxious
25 to do anything that would lead to a saving of time

1 without prejudicing the defense. But what we do for
2 one side, we must do for the other in similar circum-
3 stances.

4 JUDGE NYI: I can respectfully assure the
5 Tribunal that there would be no chance of repetition
6 of the matters cross-examined -- to be cross-examined.

7 MR. BROOKS: If the Tribunal please, I would
8 also like to enter my objection on behalf of the
9 defendants MINAMI and KOISO, but I wish to add that
10 the additional advantage given to the prosecution by
11 this method would not be able to be attained by the
12 defense because our chances for cross-examination
13 have passed.

14 THE PRESIDENT: A majority of the Court re-
15 fuse the application.

16 BY JUDGE NYI (Continued):

17 Q Mr. ITAGAKI, do you recall that in the
18 summer of 1939, when UGAKI was Foreign Minister and
19 you were War Minister, there was submitted to the
20 Japanese Government a draft of the military alliance
21 among Japan, Germany and Italy which had been drawn
22 up by OSHIMA and Ribbentrop?

23 A As I have already stated in my affidavit, the
24 proposal was presented by von Ribbentrop. In the sec-
25 ond place, the words "military alliance" was not

suggested at all. The purpose was to bolster the
1 Anti-Comintern Pact.

2 Slight correction: It was not stated in the
3 proposal that it was not a military alliance.

4 Q Never mind about the affidavit. We are com-
5 ing to more specific matters, and that is the purpose
6 of cross-examination. Is it not true that this
7 alliance originally dealt solely with Russia but that
8 by November, 1938 it had been extended so as to apply
9 also against England and France as well as against
10 Russia?

11 A It was not an alliance. The contents also
12 are different.

13 Q Is it not also true that you, as War Minister,
14 wired OSHIMA that UGAKI agreed with the substance of
15 the pact as extended against England and France?

16 A The War Minister cannot directly send a
17 telegram to an ambassador.

18 Q Did you or did you not? You are talking about
19 theory. I am asking you about fact.

20 A I deny the sending of any telegram both in
21 theory and in fact.

22 Q Did not the War Ministry send it?

23 A You speak of "War Ministry." When you speak
24 of the War Ministry, who are you referring to?
25

1 Q The Ministry of which you were the head.

2 A Who in the War Ministry?

3 Q In the name of the War Ministry, although
4 not in your personal name.

5 A That is not in my recollection.

6 Q Did not the Five Ministers' Conference ad-
7 vocate a strengthening of the Anti-Comintern Pact by
8 concluding a military alliance with Germany and Italy,
9 and did not this conference decide to have this anti-
10 Comintern program directed strictly against the Soviet
11 Union?

12 A When?

13 Q I will ask you whether there was such a con-
14 ference deciding such a matter. You were Minister of
15 State. You ought to know what transpired.

16 A The official instructions sent to the ambas-
17 sador when the Japanese proposal was forwarded to
18 Germany was that, although the USSR was to be the
19 objective of the proposed pact, the pact may also be
20 applied to other third powers depending upon circum-
21 stances or situations. However --

22 Q Well, I want to stop you right here. You
23 are not answering my question. I ask you whether
24 there was such a Five Ministers' Conference, whether
25 there was such a matter decided. Don't tell me what

1 had been despatched to the ambassadors.

2 MR. MATTICE: I may be mistaken about it, but
3 I think this is another instance where counsel has
4 prevented the witness from finishing his answer. If
5 so, I request that he be permitted to finish.

6 JUDGE NYI: I already stated yesterday that
7 I interrupted him only when he was not answering my
8 question. This has been done in the interests --

9 THE PRESIDENT: Well, in order to shorten all
10 this discussion. We will ask him whether he completed
11 his answer. If not, do so.

12 THE WITNESS: I have not completed my answer.

13 Q Answer the question.

14 A The question as to the application of the
15 use of force against third powers other than the Sov-
16 iet Union, of course, depended on the circumstances
17 or situation, and it may never be applied at all. And,
18 of course, there would be various degrees of applica-
19 tion of that -- such measures depending on circum-
20 stances. And such matters were decided upon by the
21 Five Ministers' Conference, were incorporated in what
22 may be called the basic Japanese draft, and this was
23 forwarded by the Foreign Minister to the ambassador
24 together with instructions.
25

R
e
i
c
h
e
r
s
&
Y
e
l
d
e
n

1 Q When was this Five Ministers' Conference?

2 A Well, I think it was in 1939 although I do
3 not remember the date exactly. I can recall that
4 there were three meetings held between the middle
5 and the end of January and decisions of this nature
6 were made at these three meetings.

7 Q Did not the Emperor urge the army to advocate
8 the application of the anti-comintern program to the
9 Soviet Union alone and did not the army advise the
10 Emperor that it was not in favor of that course of
11 action?

12 A No, absolutely not.

13 Q Did not Ambassadors OSHIMA and SHIRATORI
14 hold the view that the military alliance should be
15 directed against England and France as well as
16 against Russia?

17 A I have not heard it that way.

18 Q Were OSHIMA and SHIRATORI opposed to govern-
19 mental directives issued on this subject?

20 A According to what I heard from the Foreign
21 Minister the Ambassadors in the field -- whether it
22 was both of them or only one of them, I think it was
23 one of them -- communicated his opinions to the central
24 government before passing the draft on to Germany
25 that there seemed to be some doubts on certain points

1 and for this reason we had to hold another confer-
2 ence.

3 Q Is it not true that OSHIMA and SHIRATORI
4 overstepped the limits of their authority and advised
5 Germany that Japan would participate in war with
6 Germany and Italy?

7 A I have not heard that they did not submit
8 to instructions or orders from the government.

9 Q Did not you as War Minister have a confer-
10 ence with the Emperor on the 11th day of April at
11 the Emperor's Palace in which the Emperor said to
12 you, "It is an infringement upon the supreme author-
13 ity of the Emperor for the Ambassadors to express
14 intentions of participating in a war, a matter beyond
15 them to discuss," the date of the audience being 11th
16 day of April 1939?

17 A Aren't you thinking of the Foreign Minister?
18 The Foreign Minister was the competent minister with
19 regards to this matter and any inquiries thereon
20 would be addressed to him; and I myself, not being
21 the competent minister, such inquiries would not be
22 addressed to me.

23 Q Don't talk to me about theories of state.
24 Answer me whether it was a fact that you as War
25 Minister had such an audience.

1 A There was nothing of the kind.

2 Q Let me refresh your mind. Did not the
3 Emperor say to you, "Under such circumstances I do
4 not think it is very favorable for you to take the
5 attitude of supporting them. This also applies to
6 your covering up for them at the cabinet conferences"?

7 A I have no recollection as to that.

8 Q As a matter of fact, did you not cover up
9 for Ambassadors SHIRATORI and OSHIMA at the Five
10 Ministers' Conferences?

11 A What do you mean by "cover up"? I can't
12 understand what you mean by it.

13 Q OSHIMA and SHIRATORI were overstepping
14 their limits of authority. They were not obeying
15 the government directives. Is that clear to you?

16 A I have already clearly replied to a question
17 addressed by you a little while ago.

18 THE PRESIDENT: He asked you what you meant
19 by "cover up" and I do not know why he should, but he
20 did ask you that so endeavor to explain.

21 Q Did you not conceal their actions and try
22 to give excuses for them?

23 A No, there was no such case. The army on
24 its part had its own position.

25 Q Didn't you after the conference with the

1 Emperor tell the chief aide-de-camp when you asked
2 him, "Who could it be that told everything to the
3 Emperor?" Were you very angry about it?

4 A I have already very clearly replied to a
5 question addressed by you a little while ago that I
6 have never had a talk with His Majesty on this ques-
7 tion and that no inquiries thereon were addressed
8 to me by him.

9 Q I am only trying to refresh your memory.
10 Do you know that it was Foreign Minister ARITA who
11 in making a report to the Throne on the Five Minis-
12 ters' Conference told the Emperor that Ambassadors
13 SHIRATORI and OSHIMA stated that Japan would partici-
14 pate in war in the event that England and France
15 fought with Germany and Italy; do you know that?
16

17 A As Mr. ARITA was the Foreign Minister I
18 think he may have reported to the Throne on matters
19 under his competence, but I do not know what Mr.
20 ARITA reported to the Throne.

21 Q Did you know that at that time it was
22 possible for ARITA to report or are you just imagin-
23 ing now?

24 A ARITA reporting on what to the Throne?

25 Q On the matters which I just related to you;
what OSHIMA stated to Germany?

1 A I think I have already replied to that
2 question.

3 Q I was asking you -- you replied to me
4 that it was possible that it was Foreign Minister
5 ARITA who made the report to the Throne and I asked
6 you whether you knew at that time or you know it now?

7 A As I have already replied to you, Mr. ARITA
8 was the competent minister in charge of such affairs
9 and so in connection with such matters he may report
10 to the Throne at any time; and I further said that
11 he might have made some kind of a report at that
12 time but I further said that I did not know and do
13 not know the substance of the report that he made
14 to the Throne. But I have not heard that he ever
15 made a report in any way similar to what you have
16 just suggested.

17
18
19
20
21
22
23
24
25

1 Q Did not hear until when?

2 A Until when what?

3 Q You say you did not know that. Until when
4 did you not know that, ARITA making that report?

5 A It seems that your questions are very, very
6 difficult. I have already clearly told you that I did
7 not know the contents of the report then, nor do I know
8 the contents of the report now.

9 Q You can deliberately refuse to answer my
10 question. Now, let me ask you--

11 A No. Absolutely no. I have absolutely no
12 such intention. You can put the question as many
13 times as you wish.

14 Q Did you know that Foreign Minister ARITA
15 recommended to the Emperor that the statements made
16 by Ambassadors OSHIMA and SHIRATORI should be rescinded
17 as actions overstepping their limits as ambassadors?

18 A I don't remember.

19 Q It is correct, is it not, that Chancellor
20 Hitler made a speech on April 28, 1939 in reply to
21 President Roosevelt's request that Chancellor Hitler
22 and Premier Mussolini give a ten-year guarantee of
23 peace for thirty-one European and Near Eastern States?

24 A That is not in my recollection.

25 Q Did you not, shortly before April 28, 1939,

1 send instructions to Ambassador OSHIMA through the
2 military attache to announce the positive attitude of
3 the Japanese Government before Hitler's speech?

4 A As I have said before, I cannot directly
5 send instructions to the Ambassador.

6 Q Did you hear me asking you, "through the
7 military attache"? Did you or did you not?

8 A I have never and could not send instructions
9 to Ambassador OSHIMA.

10 Q What means did Ambassadors OSHIMA and SHIRATORI
11 use to influence the policy of the Japanese Government
12 on the question of an all-out military alliance with
13 Germany and Italy?

14 A There could never be a case of a Japanese
15 Government being influenced by an ambassador.

16 Q Do you know or do you not know any means
17 employed by OSHIMA and SHIRATORI to influence?

18 A I don't know any such means.

19 Q Did not OSHIMA and SHIRATORI threaten to resign?

20 A ARITA has never told me about that.

21 Q Was there not placed before the Five Ministers'
22 Conference on April 25th a request from Ambassadors
23 OSHIMA and SHIRATORI for their recall?

24 A I have never heard of that.

25 Q Was not the recall of Ambassadors OSHIMA and

1 SHIRATORI considered to be such a serious question
2 that it might influence peace and order within the
3 nation?

4 A There being no such facts in existence, there
5 was nothing to consider. Therefore, there is nothing
6 of that kind in my recollection.

7 Q Was it not the view of the Government that
8 it would be better to be satisfied with the results
9 of negotiations for the military alliance, whatever
10 they may be, than to risk the recall of the Ambassadors?

11 A There was no question of recall.

12 Q Did not the Five Ministers' Conference determine
13 that the Premier should make a general statement directed
14 to Hitler and Mussolini and that the Foreign Minister
15 should present it to the German and Italian Ambassadors
16 in Tokyo, instead of using the Japanese Ambassadors
17 stationed in Berlin and Rome.

18 A With regard to Prime Minister HIRANUMA's
19 message, I have already stated in my affidavit. The
20 facts are as I have stated therein.

21 Q Was not this governmental statement made in
22 this manner to the German and Italian Ambassadors be-
23 cause of the opposition of OSHIMA and SHIRATORI to the
24 will of the Japanese Government?
25

A No, that was not the case at all.

1 Q Did you know as a fact that the statement was
2 conveyed to the German and Italian Ambassadors in
3 Tokyo? Do you know this as a fact?

4 A Yes, I have stated so in my affidavit. The
5 purpose of this, let me explain. Before that the
6 Foreign Minister had presented a proposal, a suggestion.
7 And with regard to the suggestion or proposal made by
8 the Foreign Minister, various discussions were held
9 among us, and although this direct means of presenting
10 the message or note was taken, this course was not
11 taken for the purpose of ignoring our two Ambassadors,
12 but rather to support them. I heard this at the Five
13 Ministers' Conference.

14 JUDGE NYI: Will the Marshal please obtain
15 exhibit 503 from the Clerk and present it to the
16 witness?

17 THE PRESIDENT: We had better do this after
18 lunch. We will adjourn until half past one.

19 (Whereupon, at 1200, a recess was taken.)
20
21
22
23
24
25

1 AFTERNOON SESSION

2
3 The Tribunal met, pursuant to recess, at 1330.4 MARSHAL OF THE COURT: The International
5 Military Tribunal for the Far East is now resumed.

6 THE PRESIDENT: Judge Nyi.

7 - - -

8 S E I S H I R O I T A G A K I, an accused, resumed
9 the stand and testified through Japanese inter-
10 preters as follows:

11 CROSS-EXAMINATION

12 BY JUDGE NYI (Continued):

13 JUDGE NYI: With respect to the allegation
14 of the affidavit about the HIRANUMA declaration, we
15 invite the Tribunal's attention to exhibit 503 on
16 page 6105.17 Q Now, Mr. ITAGAKI, is it not a fact that very
18 soon after Foreign Minister ARITA delivered the HIRA-
19 NUMA declaration to the German and Italian ambassa-
20 dors he received an official wire from Councilor
21 USAMI in Berlin to the effect that Gauss, Deputy Vice
22 Minister of the German Foreign Office, had submitted to
23 him a proposed draft of alliance and had inquired as to
24 whether it would meet with the approval of the Japanese
25 Government?

1 A Are you referring to a person by the name
2 of Gauss?

3 Q Yes.

4 A I have some recollection as to that, but
5 what the contents were I have completely forgotten.

6 Q Is it also a fact that in consequence of
7 the proposed draft, revealing that it was written
8 in a very indirect fashion with emphasis on the German
9 demands which had previously been refused by Japan,
10 Foreign Minister ARITA made an investigation of the
11 origin of the draft and concluded that it was sub-
12 mitted to the German Foreign Office through attaches
13 of the Japanese Army?

14 A That is not a fact.

15 Q Do you know, what did the Gauss draft provide?

16 A Regarding this, too, I have already very
17 clearly replied to your question.

18 Q About the contents of the Gauss draft?

19 A Yes.

20 Q Is it not a fact that within a few days
21 after the delivery of the HIRANUMA declaration a
22 wire was received from Ambassador OSHIMA advising
23 that Ribbentrop had made an inquiry to the effect
24 that if Germany should go to war against another
25 nation and even if there is no military aid from

1 Japan, would it be permissible to recognize Japan as
2 being in a state of war, to which OSHIMA had replied
3 in the affirmative?

4 A I have no recollection.

5 Q At the Five Ministers' Conference held on
6 the 7th of May, 1939, did you not support the answer
7 of OSHIMA to Ribbentrop?

8 A When you refer to "support," do you mean
9 sending instructions to OSHIMA?

10 Q Did you agree with his answer? That answer
11 from OSHIMA to Ribbentrop was that in the event of
12 war between one of the contracting nations and another
13 nation Japan would be considered to have entered a
14 state of war although there may not be any military
15 support.

16 A I do not recall whether such a subject came
17 up for discussion at the conference.

18 Q Did not Premier HIRANUMA support your opinion
19 in this matter? Does that help your memory?

20 A No, it does not refresh my memory.

21 Q Did not the Premier report to the Throne
22 that Japan would not participate in war, and did not
23 Foreign Minister ARITA threaten to resign because of
24 the opinions of the Prime Minister and yourself?

25 What I mean is, had the Premier reported to

1 the Throne?

2 A I do not know that.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 Q Is it not true that the Gauss draft of the
2 proposed military alliance was discussed at the Five
3 Ministers' Conference of May 9, at which time it
4 appeared that the draft did not come through legitimate
5 channels?

6 A As I have been saying to you frequently for
7 the last number of minutes, I have no recollection as
8 to the contents of the Gauss proposal.

9 Q In the discussion of the Gauss draft, did
10 not the Navy Minister contend that before making a
11 decision it was necessary to receive an official reply
12 from Germany to the HIRANUMA declaration, and that
13 Premier HIRANUMA contended that a reply to his message
14 was unnecessary because the matter had already been
15 solved when Ambassador OSHIMA replied yes upon Foreign
16 Minister Ribbentrop's asking him whether it was all
17 right to consider Japan a participant in the event of
18 war?
19

20 A Such a thing did not come up for discussion.

21 Q Is it not true that the matter of Ambassador
22 OSHIMA's reply to Foreign Minister Ribbentrop's query
23 was considered again at the Five Ministers' Conference
24 held on the 20th of May, and that Foreign Minister
25 ARITA at this time again advocated the annulment of
Ambassador OSHIMA's reply while Premier HIRANUMA took

1 the position that Ambassador OSHIMA's answer was
2 sufficient?

3 A I recall that a Five Ministers' Conference
4 was held on the 20th of May, but my recollection is
5 that such a matter was not brought up for discussion.

6 Q Were there not various conferences between the
7 army and the navy from May 13, 1939, to May 20, which
8 resulted in a compromise agreement regarding the Gauss
9 draft, with the result that a new proposal was to be
10 made reserving to Japan the right to have a conference
11 before participating in a European war?

12 A As I have been repeatedly telling you, I do
13 not recall the contents of the Gauss draft. And I have
14 been replying to you time and time again, repeatedly,
15 that any discussion based upon the Gauss draft was
16 not brought up for discussion.

17 Q Did you not on the 20th of May, 1939, send one
18 by the name of MACHIJIRI to Ambassador Ott with a
19 written declaration to the effect that the army was
20 working for the signing of the pact secretly and simul-
21 taneously with the signing of the German-Italian Pact
22 in order to give the pact the character of a tripartite
23 alliance?
24

25 A No, that is not so.

Q Was not this compromise plan approved at a

1 Five Ministers' Conference held on the 20th of May,
2 and the action of the conference reported to the Emperor?

3 A As I have said previously, I do recall a
4 Five Ministers' Conference having been held on the
5 20th of May, but I do not recall whether the result
6 of that meeting was reported to the Emperor.

7 Q Is it not a fact that the army contended that
8 the Foreign Minister's report to Berlin of the Five
9 Ministers' Conference decision of May 20 was erroneous
10 in that it failed to stipulate automatic entrance into
11 a state of war against England and France and on the
12 contrary made participation dependent on the prevailing
13 situation?

14 A The conference held on the 20th of May was
15 devoted entirely within the -- the discussion of the
16 conference held on May 20 was circumscribed to the
17 matters contained in the HIRANUMA message of May 5.

18 your efforts in behalf of the Army plan for automatic
19 entrance into a state of war?

20 A With regard to that question, I think I have
21 already very clearly replied to you saying that that
22 was absolutely not the case.

23 Q Is it not a fact that at the Five Ministers
24 Conference held on the 5th of June, 1939, the Army and
25

L
e
f
f
e
r
&
W
o
l
f

1 Q Do you recall at all that the Gauss draft
2 was thus amended at the Five Ministers Conference of
3 May 20, forwarded to OSHIMA and SHIRATORI for
4 presentation to the German and Italian Governments,
5 and did not OSHIMA and SHIRATORI refuse to deliver it
6 saying that they would not consider the new proposal?

7 A Well, there comes the Gauss draft again. Now,
8 as I have told you repeatedly, time after time, I do
9 not recall the contents of the Gauss draft and I do
10 not recall any discussions based upon such a draft.

11 Q You may recall that there was an amendment to
12 it.

13 Now, did you know that SHIRATORI and OSHIMA
14 refused to deliver it saying that they would not consider
15 the new proposal?

16 A I do not recall.

17 Q Did not you and Premier HIRANUMA continue
18 your efforts in behalf of the Army plan for automatic
19 entrance into a state of war?

20 A With regard to that question, I think I have
21 already very clearly replied to you saying that that
22 was absolutely not the case.

23 Q Is it not a fact that at the Five Ministers
24 Conference held on the 5th of June, 1939, the Army and
25

1 the Navy finally found a basis for agreement and thus
2 the problem of strengthening of the Japan-German-Italian,
3 Anti-Comintern Pact was clarified?

4 A Yes, on that day the course of the negotiations
5 were concluded and the last instructions were sent out.

6 Q In this agreement between the Army and the
7 Navy, reached on June 5th, 1939, was it not understood
8 that in the event of war between Germany and Italy on
9 the one hand and England and France on the other, Japan
10 would participate, but with the reservation that Japan
11 should have the right to choose a favorable time for
12 entering the war?

13 A The contents are quite different from the
14 question of that day.

15 Q Then tell us what was the new basis of agree-
16 ment?

17 A There were generally two points on which the
18 German side did not agree to the Japanese proposal at
19 that time. This was with respect to the attached clause
20 and not in connection with the main questions. One of
21 the two points was to submit to the German side, in
22 writing, that as far as Japan was concerned she was
23 unable to give any effective assistance in the present
24 or in the near future in connection with armed assistance
25 to third powers in East Asia outside of the Soviet Union.

1 The second question was the method of making a
2 diplomatic explanation. That is to say, how to make
3 a diplomatic explanation. Well, this treaty, generally
4 speaking, was directed toward the destructive and
5 subversive activities of the Third International of
6 the Soviet Union which was a matter of great danger
7 and which danger we felt. And there was some talk
8 whether to present this matter to the German side, also
9 in writing or orally. But, at any rate, these were
10 the two questions which were discussed and decided upon
11 at the conference on the 5th of June.

12 Q Did you not confer with the Emperor several
13 days prior to the 7th day of July, 1939, regarding the
14 sending of General TERAUCHI to the Nazi Party conference
15 in Germany, at which time you stated to the Emperor
16 that it was necessary to send General TERAUCHI to
17 Germany for the purpose of strongly binding the Anti-
18 Comintern Pact spiritually, and that the Emperor replied
19 that he did not think it very good?

20 A That is not in my recollection.

21 Q Let me refresh your mind. Do you remember
22 that at this same conference with the Emperor, did not
23 the Emperor charge that at the conference of Supreme
24 War Councillors you reported falsely that the Foreign
25 Minister was in favor of military alliance and that the

1 Emperor followed this statement by telling you, "That
2 is very insolent"?

3 A Such a thing never took place.

4 Q Did you have a conversation with Prince KONOYE
5 a few days prior to the 23rd day of July, 1939, in which
6 you asked him if it was possible to change the Emperor's
7 mind in regard to the military agreement and Prince
8 KONOYE replied, "It is very difficult"?

9 A That, too, is also not in my recollection.

10 Q Was the military alliance between Japan, Germany
11 and Italy discussed at the meeting on August 3 of the
12 Big Three, namely, you, the Chief of Staff and the
13 Inspector General of Military Training?

14 A I have no recollection whether or not a meeting
15 of the Supreme War Councilors was held on the 3rd of
16 August.

17 Q But you recall what action was taken at this
18 meeting of the Big Three?

19 A No.

20 Q Did not the Army oppose the agreement with
21 Great Britain regarding the Tientsin question on the
22 ground that it would hurt the chances for a German-
23 Japanese military alliance?

24 A Is this question with reference to a meeting
25 of the Supreme War Councilors?

1 Q No. have made no reference with regard to the

2 A What date are you referring to? connection with

3 Q The Army -- The time when you came to an
4 agreement with Great Britain -- an understanding with
5 Great Britain with regard to the Tientsin concession
6 was July, 1939. there would be no possibility

7 A Well, with regard to that, I have devoted an
8 entire paragraph in my affidavit saying that negotiations
9 or conversations were held between Japan and Great
10 Britain in order to bring about a meeting of minds.

11 chances of a German-Japanese alliance?

12 A The Army did not oppose. With respect to the
13 Anglo-Japanese conversation, the matter on the spot
14 was transferred to Tokyo and laid into the hands of
15 the diplomatic authorities for negotiation, and at
16 these conversations between the Japanese and British
17 authorities, representatives from the spot attended
18 and very sincerely co-operated in the effort.

19 Q You are not answering my question. Let me
20 ask you: Did you not urge convocation of a Five
21 Ministers Conference a few days prior to the 3rd day
22 of August, 1939, at which you were willing to push an
23 all-out military alliance, even at the risk of a
24 Cabinet crisis?

25 A No, not at all.

1 Q You have made no reference with regard to the
2 Tripartite Pact in your affidavit in connection with
3 the Anglo-Japanese talks.

4 A Since the Anglo-Japanese conversations and
5 the Tripartite Pact question are entirely separate
6 matters. I cannot -- there would be no possibility
7 of the two being intermingled.

8 Q That is why I am putting to you the question.
9 Did the Army oppose it? Did the Army oppose the Anglo-
10 Japanese understanding because it would hurt the
11 chances of a German-Japanese alliance?

12 A The Army did not oppose. With respect to the
13 Anglo-Japanese conversation, the matter on the spot
14 was transferred to Tokyo and laid into the hands of
15 the diplomatic authorities for negotiation, and at
16 these conversations between the Japanese and British
17 authorities, representatives from the spot attended
18 and very sincerely co-operated in the effort.

19 Q You are not answering my question. Let me
20 ask you: Did you not urge convocation of a Five
21 Ministers Conference a few days prior to the 3rd day
22 of August, 1939, at which you were willing to push an
23 all-out military alliance, even at the risk of a
24 Cabinet crisis?
25

 A No, not at all.

1 Q At the Five Ministers Conference of August 8,
2 1939, was the Army's contention presented to the effect
3 that a change of the situation necessitated an all-out
4 military alliance between Japan, Germany, and Italy?

5 A It was not a question of presenting a con-
6 tention.

7 Q What was the exact situation? Did not the
8 Army present their views that an all-out military
9 alliance was necessary?

10 A That was not so. Although there may have
11 been such a view in existence, the Army's position
12 was that it must observe the decision reached by the
13 Five Ministers Conference on June 5, which was the
14 final plan adopted by that conference. And, therefore,
15 at that conference, I told my conferees that to all
16 possible extent I, as Minister of State, would abide
17 by the decision reached by the Five Ministers Confer-
18 ence, and that I expressed the desire that a pact be
19 concluded through a German compromise within the scope
20 of the decision made on June 5.

21 Q Was it not the Army's contention that, in the
22 event Germany refused to agree to what was known as the
23 Prearranged Plan, an all-out military alliance should
24 be concluded?

25 A No, that was not so.

1 Q Let me refresh your recollection. Do you
2 not recall that Premier HIRANUMA asked you what you
3 thought about the contention of the Army, and you
4 replied that on the one hand you were State Minister
5 but at the same time you were also War Minister, that
6 with regard to the Prearranged Plan you favored it as
7 State Minister, but as a representative of the general
8 opinion of the Army you favored the second course,
9 that is, the military alliance?

10 A That is entirely different. That was not
11 the case.

12 Q Was not the Prearranged Plan discussed in
13 the Five Ministers Conference of August 8 the plan
14 which was agreed upon at the Five Ministers Conference
15 of June 5?
16

17 A We consulted among each other with regard to
18 moving things -- advancing matters in accordance with
19 the Prearranged Plan or fixed policies.

20 Q What was the Prearranged Plan?

21 A The plan adopted on June 5.

22 Q In the discussion that followed the Five
23 Ministers Conference of August 8 -- in the discussion
24 that followed the Five Ministers Conference of August 8,
25 did not Navy Minister YONAI answer the Army's contention
that failure to conclude an all-out military alliance

1 would mean isolation for Japan by saying that it would
2 not be a disadvantageous isolation but would be an
3 advantageous one?

4 A I have no recollection.

5 Q Did not Premier HIRANUMA ask you at this
6 conference of August 8 if the main point of the Army's
7 proposal meant hindering the Prearranged Plan, to which
8 you replied that it did?

9 A That, too, is not so.

10 Q Is it not true that due to the wide gap be-
11 tween the Foreign Minister's proposal and that of the
12 Army, it was considered inadvisable to convene the
13 Five Ministers Conference on the 22nd of August but
14 that plans were made to convene on the 25th of August?

15 A When was that?

16 Q 22nd of August. It was not held, and it was
17 convened on the 25th of August.

18 A On the 22nd of August, we received the report
19 that a non-aggression pact had been concluded between
20 Germany and the Soviet Union, and so it was only
21 natural that there was no more need to discuss the
22 Tripartite Pact on that day.

23 Q You are not answering my question. My ques-
24 tion was whether the postponement was due to the wide
25 gap between the Foreign Minister's proposal and the

1 views of the Army.

2 A No, that was not the case at all.

3
4
5

6 I I do not recall. I would like to have the
7 question again because it is quite difficult to try
8 to answer by memory.

9 (Whereupon, the last question

10 was read by the Japanese court reporter.)

11 A (Continuing) Well, I can't quite remember
12 the question asked in regard to the Japanese
13 and Chinese forces.

14 Q Now, regarding the fact that there was a sug-
15 gested line of attack against the fact that
16 the Japanese had taken the position of the
17 question of the recall of the Japanese.

18 A Well, there seems to be a little bit of con-
19 fusion with regard to the recalling question, but my
20 opinion is that on the 25th, December, as the
21 Japanese had been told that they were to
22 Germany and the Soviet Union, and as far as Japan
23 concerned this was in violation of the Anti-Comintern
24 Pact. We discussed this and probably arrived at
25 a decision to issue a protest with regard to this.

K
a
p
l
e
a
u
&
K
n
a
p
p

1 Q Was not the matter of the recall of
2 Ambassadors OSHIMA and SHIRATORI again considered
3 at this time, and was it not suggested that this
4 problem of recall be solved by sending the Premier
5 for a conference with Hitler and Mussolini?

6 A I do not recall. I would like to have the
7 question again because it is quite difficult to try
8 to awaken my memory.

9 (Whereupon, the last question
10 was read by the Japanese court reporter.)

11 A (Continuing) Well, I can't quite understand
12 how the question of recall of the Ambassadors OSHIMA
13 and SHIRATORI could arise.

14 Q Answer my question, whether there was a sug-
15 gestion that the Premier should go to call -- have a
16 conference with Hitler and Mussolini because of the
17 question of the recall of the ambassadors.

18 A Well, there seems to be a little bit of con-
19 fusion with regard to the recalling question, but my
20 opinion is that on the 25th, inasmuch as the Germans
21 -- the non-aggression pact was concluded between
22 Germany and the Soviet Union, and as far as Japan was
23 concerned this was in violation of the Anti-Comintern
24 Pact. We discussed matters and probably arrived at
25 decisions to lodge a protest with Germany with regard

1 to such violation on the 25th.

2 Q Don't digress to a point which I am not
3 asking you. I am asking you whether there was a
4 suggestion to send the Premier to see Mussolini and
5 Hitler?

6 A Yes, that suggestion did exist, but that was
7 a study made by a small group on a lower level, prior
8 to the conclusion of the German-USSR Non-Aggression
9 Pact, but this was not placed on the agenda of the
10 Five Ministers' Conference. This had no connection
11 whatsoever with the question of recalling the two
12 ambassadors.

13 Q Was not the cabinet ready to resign at this
14 time, but army circles desired that responsibility of
15 cabinet resignation be diverted from the army?

16 A The cabinet was not ready to resign.

17 Q Before the question of sending the Premier
18 to Europe was settled, and before the gap was closed
19 between the Foreign Ministry proposal and that of the
20 army, was not word received of the conclusion of the
21 German-Russian Non-Aggression Pact of August 23, 1939?

22 A The situation was as I have already explained
23 to you.

24 Q Do you agree with the question I put to you?

25 A I have already told you that this question

1 arose before the conclusion of the non-aggression
2 pact between Germany and the Soviet Union.

3 Q That is no answer. I asked you whether, be-
4 fore the sending -- the question of sending the
5 Premier to Europe was settled, and before the gap was
6 closed between the army and the Foreign Ministry's
7 views, the Russian-German Non-Aggression Pact was
8 concluded?

9 A Well, there wasn't any question about the
10 Foreign Ministry's plan, or the Prime Minister's plan,
11 or the army's plan. The question was studied only
12 by a small circle at a very low level, and it had
13 not matured up to the point where it could be placed
14 before the Five Ministers' Conference.

15 Q So you agree with my question, do you?

16 A Well, yes. Chronologically speaking, I would
17 have to say yes.

18 Q Were you not, on April 29, 1934, decoarted
19 with the Third Class Imperial Order of the Golden
20 Kite for meritorious services in the Manchurian
21 Incident from 1931 to 1934?

22 THE PRESIDENT: We have particulars of his
23 decorations. Until they are contradicted, they stand.

24 JUDGE NYI: Your Honor, this concludes my
25 cross-examination.

1 THE PRESIDENT: Mr. Mattice.

2 MR. MATTICE: If it please the Tribunal,
3 General ITAGAKI has called my attention to a mistake
4 in the date of the organization of the HIRANUMA
5 Cabinet; page 38 in his affidavit, the first line,
6 where it is stated that the HIRANUMA Cabinet was
7 organized on January 4, 1939. I am informed that the
8 date in the month of January is incorrect, and we
9 desire permission to correct that if we may.

10 THE PRESIDENT: The witness may correct it.

11 REDIRECT EXAMINATION

12 BY MR. MATTICE:

13 Q What was the date, General ITAGAKI, of the
14 formation of the HIRANUMA Cabinet?

15 A It would be correct to say January 5.

16 Q January 5th instead of 4th?

17 A Yes.

18 THE PRESIDENT: Nothing turns on it, yet.

19 MR. MATTICE: I have just one or two ques-
20 tions by way of redirect.

21 Q General, with respect to the July 21, 1938
22 audience with the Emperor in which something was said
23 about difference or variance between the report of
24 the Foreign Office and of your department, as I
25 understood, you said you informed the Emperor that

1 you would investigate or check into it. Did you do
2 that?

3 A Yes, I did that.

4 Q What did you find in that respect?

5 A I reported the entire matter to Prime
6 Minister KONOYE and Prime Minister KONOYE passed --
7 relayed the matter to the Foreign Ministry and had the
8 matter looked into.

9 THE MONITOR: Correction: Instead of
10 "Foreign Ministry" "Foreign Minister" should be the
11 correct word there.

12 Q What, if anything, further did you do in
13 respect to that matter?

14 A As a result, Prime Minister KONOYE ascer-
15 tained that my report was not mistaken; that is, my
16 report to the Throne. And so Prime Minister KONOYE
17 made the report to the Emperor, and later the original
18 plan which I had submitted was again submitted and
19 this received the Imperial sanction.

20 Q You mean submitted to the Emperor by you a
21 second time?

22 A Yes.

23 THE PRESIDENT: We will recess for fifteen
24 minutes.

25 (Whereupon, at 1445 a recess was

1 taken until 1500, after which the proceed-
2 ings were resumed as follows:)

3 THE PRESIDENT: Mr. Matsuda.

4 MR. MATSUDA: It is my understanding that

5 the Council desire to have your designation of General

6 ITAGAKI.

7 THE PRESIDENT: Mr. Levin.

8 MR. LEVIN: Mr. President.

9 THE PRESIDENT: On behalf of which committee

10 MR. LEVIN: On behalf of FURUKI.

11 BY MR. LEVIN:

12 I General, the Director General of the China

13 Affairs Bureau was YAMAGUCHI, Matsuda was the

14 Director General.

15 Now are right: YAMAGUCHI, Matsuda was the

16 Director General.

17 That was his official designation?

18 Yes, was FURUKI?

19 Yes, of YAMAGUCHI.

20 Director General.

21 MR. LEVIN: That is all.

22 THE PRESIDENT: I have two or three questions

23 on behalf of the Council.

24 BY THE PRESIDENT:

25 At the outbreak of the Sino-Japanese war

G
r
e
e
n
b
e
r
g
&
B
a
r
t
o
n

1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Mattice.

4 MR. MATTICE: It is my understanding that
5 other counsel desire to make some inquiries of General
6 ITAGAKI.

7 THE PRESIDENT: Mr. Levin.

8 MR. LEVIN: Mr. President.

9 THE PRESIDENT: On behalf of which accused?

10 MR. LEVIN: On behalf of SUZUKI.

11 BY MR. LEVIN:

12 Q General, the Director General of the China
13 Affairs Board was YANAGAWA, Heisuke and not SUZUKI,
14 Teiichi, is that correct?

15 A You are right: YANAGAWA, Heisuke was the
16 Director General.

17 Q What was his official designation?

18 A You mean SUZUKI?

19 Q No, of YANAGAWA.

20 A Director General.

21 MR. LEVIN: That is all.

22 THE PRESIDENT: I have two or three questions
23 on behalf of the Tribunal.

24 BY THE PRESIDENT:

25 Q At the outbreak of the Mukden Incident were

1 any special orders given to army units at Changchun,
2 Antung and Fushun?

3 A The orders were supposed to have been issued
4 by the commanding general of the Kwantung Army.

5 Q What were they?

6 A I was then in Mukden, and, of course, I heard
7 of this matter later, and, therefore, my recollection
8 may not be exact. But the troops stationed in Chang-
9 chun were, in accordance with the plans previously
10 arranged, to be concentrated in the Mukden area. But
11 this plan was changed and the troops in the Changchun
12 area were ordered to remain. There were no direct
13 orders given to the troops garrisoned in Fushun. The
14 commander of the second battalion garrison in Mukden
15 sent an urgent telegraphic advice to the commander of
16 the Fushun garrison asking him to come to Mukden
17 immediately. With respect to the unit in Antung, I
18 have no recollection.

19 Q Did you approve?

20 A At the time of the issuance of the order I
21 was not in Port Arthur but in Mukden, so I was not
22 directly connected with this matter.

23 Q Can you explain how fighting broke out on
24 that night at those three places?

25 A In Changchun -- and this is based on a report

1 received much later -- the brigade commander of the
2 garrison in that city was to have come to Mukden
3 according to plan, but he was ordered to remain in
4 Changchun for the time being but at the same time
5 was advised that he may be ordered to advance his
6 troops to Mukden some time later with no specifica-
7 tion as to time. But, because of the danger to
8 the -- because of the need to protect the South
9 Manchuria Railway as well as Japanese residents in
10 the zone from danger created by the existence of
11 Chinese troops in the district of Nangling and
12 Kuangchentzu, the brigade commander on his own
13 initiative opened an attack in Changchun.

14 Q It seems remarkable that fighting should
15 break out at all four points including Mukden almost
16 at the same time that night. Can you offer a short,
17 clear explanation or any explanation that would be
18 convincing?

19 A The time of the opening of hostile action
20 was different at different places.

21 Q What were the various times? Do you recol-
22 lect?

23 A I am not certain as to the time, but the
24 hostilities commenced in Changchun on the 19th around
25 noon. There was no action at Fushun. The Chinese

1 troops at Huanfongcheng were disarmed, but that was
2 on the 19th of September. That is to say, that took
3 place after a telegraphic order had been sent by the
4 Kwantung Army Headquarters at Port Arthur.

5 THE PRESIDENT: Yes. Any further questions?
6 Any further examination?

7 MR. MATTICE: That concludes the individual
8 defense of this accused.

9 THE PRESIDENT: He is to take his place in
10 the dock.

11 (Whereupon, the witness was ex-
12 cused.)

13 THE PRESIDENT: What is the next case?
14 Mr. Levin.

1 MR. LEVIN: Mr. President and Members of
2 the Tribunal, we begin the presentation of evidence
3 on behalf of KAYA, Okinori. I proceed with the
4 reading of the revised opening statement on his behalf:

5 In this brief opening statement of the de-
6 fendant KAYA it is necessary to preface what we have
7 to say by pointing out that not only is there a
8 paucity of evidence against him to sustain the charges
9 of the prosecution under the Indictment, but except
10 for the fact, as has been shown, that he held conven-
11 tional administrative offices during the KONOYE and
12 TOJO cabinets and performed his duties in a conven-
13 tional and routine manner, there is nothing in the re-
14 cord to sustain the charges against him. The evidence
15 will show that he entered the Finance Ministry as a
16 young man out of college through competitive civil
17 service examination and that his entire career was
18 spent in that department of the Government, with the
19 exception of his service as President of the North
20 China Development Company. We believe we are sustained
21 in this statement by the tenuous argument of the prose-
22 cution made on this defendant's motion for dismissal.
23 Without apology, we nevertheless feel that we must
24 meet the issues raised by the prosecution in a nega-
25 tive way.

1 In GROUP ONE: CRIMES AGAINST PEACE of the
2 Indictment, the defendant KAYA is charged with all
3 the counts except those concerning initiation and
4 prosecution of a war of aggression against French
5 Indo-China and Soviet Russia, and the initiation of
6 the Manchurian Incident. The evidence will show that
7 the first position that this accused held, although
8 it cannot be said of any power, was when he became
9 Vice-Minister of Finance in February 1937, followed
10 by his short tenure as Minister of Finance in June
11 1937, which continued only until May 1938, a period
12 of less than a year, and his evidence will indicate
13 that he conducted his office as an office of state;
14 and that he did not participate in a conspiracy as
15 charged, and had no connection with one whatever. It
16 is, of course, contended that no conspiracy existed,
17 but if there was one, the evidence will indicate that
18 he was not a party to it. The prosecution has not
19 tendered any evidence against the defendant KAYA in
20 connection with the attacks against Soviet Russia or
21 French Indo-China nor in connection with the Manchurian
22 Incident. In his personnel record it stated that he
23 was an official of the Finance Ministry but he was out
24 of the Government about a year before the border dis-
25 putes with Soviet Russia took place, as claimed by the

1 prosecution, and it was about two years after he re-
2 signed from the Government that the French Indo-China
3 development took place. When the 1911-Partite Pact
4 was signed he was not a member of the Government and
5 there is, of course, no evidence to indicate any con-
6 nection on his part in either the negotiation or the
7 signing of the Pact. For some time prior and after
8 the occurrence of the Manchurian Incident he was a
9 minor official of the Finance Ministry. The evidence
10 will show that when the matter of military budgets
11 came before him for consideration, he exerted, within
12 his limited powers, every effort to slash them and
13 prevent them from increasing.

14 The prosecution has charged that he was party
15 to the planning of a huge-scale war of aggression, but
16 not only did he have nothing to do with it, (and there
17 is no evidence to indicate that he did) but he knew
18 nothing about the Five Year Plan for Ammunition In-
19 dustries and Five Year Plan for Heavy Industries
20 said to have been established in May and June of 1938.
21 The Cabinet of which he was a member did not adopt
22 such plans nor did he have anything to do with their
23 adoption nor with putting them in effect.

24 The evidence will show that what the defendant
25 did in office during the time he became Vice-Minister

1 of Finance in February 1937, up to the time he resigned
2 as Finance Minister in May 1938, was to establish
3 measures to combat the turmoil and uncertainty that
4 were troubling the economy of the country before he as-
5 sumed his post and which became aggravated on account
6 of the China Incident. But he did try to avoid radical
7 changes. The prevailing tendency at that time was for
8 a strong foreign policy ~~and~~ at home, the abolition of
9 the status quo in favor of radical changes. His moder-
10 ate policy, therefore, was regarded in disfavor and for
11 that reason he was asked to resign his post as Finance
12 Minister. He resigned because of this difference in
13 views.

14 The evidence will show that the defendant
15 KAYA was President of the North China Development Com-
16 pany from August 1939 to October 1941. He was appointed
17 as its administrative head and acted in that capacity
18 pursuant to law. It will be pointed out that the ap-
19 proval of the Prime Minister was required when either
20 making or revising regulations, increasing capital and
21 the carrying on of the functions of this company. The
22 evidence will show that it was under the direction and
23 supervision of the China Affairs Board and he was not
24 permitted to act on his own initiative.
25

 The evidence will show Mr. KAYA had a strong

1 desire to avoid war long before he became a member of
2 TOJO's Cabinet. He had no connection with the Imperial
3 Conferences of July and September 1941, nor did he know
4 anything about these conferences. In October 1941,
5 when TOJO requested him to become the Finance Minister,
6 he did so only after receiving the assurance from TOJO
7 that the new Cabinet would endeavor to maintain peace
8 and would adopt policies to that end.

9 After joining the Cabinet, the defendant KAYA
10 worked toward the amicable settlement of the Japanese-
11 American negotiations. He endeavored to prevent war
12 even if the negotiations were not successful. However,
13 the conditions at the time were beyond his power to
14 prevent war. Dissatisfied as he was with the outcome,
15 he did not resign from his post because he could not
16 do so as a loyal citizen of the country. However, he
17 assented to the decision for war because he clearly
18 recognized that the war was inevitable.

19 Under GROUP TWO of the Indictment, MURDER,
20 the defendant KAYA is charged with Counts 37 to 47.
21 The evidence will show that Mr. KAYA did not plan a
22 war of aggression nor knowingly agree to it. He was
23 not a party to any plan to open hostilities without
24 first giving notice, nor did he give silent approval
25 to such a plan. He was not a party to any plan to wage

1 battles in breach of laws of land warfare, nor did he
2 give consent or silent approval to such acts. The
3 record is replete that the Supreme Command was inde-
4 pendent of the Cabinet, and therefore, a civilian
5 Cabinet officer could have no responsibility in re-
6 lation to the waging of battles. Civilian members of
7 the Cabinet had no voice in war operations. The at-
8 tacks on Hankow and Canton took place long after he
9 resigned his post as Finance Minister.

10 As to GROUP THREE: CONVENTIONAL WAR CRIMES
11 AND CRIMES AGAINST HUMANITY, the defendant is charged
12 with all three counts. However, the treatment of
13 prisoners of war was a matter outside his jurisdiction.
14 He was not informed nor consulted on the matter of il-
15 legal treatment of prisoners of war and it was a matter
16 with which he was charged with no responsibility and
17 in the nature of negative presentation we state the
18 prosecution did not directly or indirectly offer evi-
19 dence to indicate any responsibility on the part of
20 Mr. KAYA in relation to these counts in the Indictment.

21 In fine, the evidence to be offered by the
22 accused will show that he was a career public servant;
23 that such duties and functions he performed were either
24 as a member of the Cabinet or in an administrative
25 capacity and not otherwise all of which were performed

1 as a state official essential in carrying out the
2 functions of government.
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 I call the witness SHIONO, Suehiko, and I
2 refer to defense document No. 2653.

3 - - -

4 S U E H I K O S H I O N O, called as a witness on
5 behalf of the defense, being first duly sworn,
6 testified through Japanese interpreters as
7 follows:

8 DIRECT EXAMINATION

9 MR. LEVIN: Will the Marshal please hand
10 the witness defense document No. 2653?

11 (Whereupon, a document was handed
12 to the witness.)

13 BY MR. LEVIN:

14 Q Will you please state your name, address
15 and occupation?

16 A My name is SHIONO, Suehiko. My address is
17 575 Arimune, 3 chome, Suginami-ku, Tokyo. I have no
18 occupation.

19 Q Is that your signature and seal which ap-
20 pears on the document?

21 A That is so.

22 Q Are the contents of the document true and
23 correct?

24 A Yes, both true and correct.

25 MR. LEVIN: I offer in evidence defense

1 document 2653, the affidavit of SHIONO, Suehiko.

2 MR. WILEY: Mr. President and Members of
3 the Tribunal, on the part of the prosecution we ob-
4 ject to the admission of this document on the ground
5 if same is material it should have been brought up
6 in the general phase, and on the further ground that
7 same is repetitive. This document pertains to the
8 clash of troops in the Lukouchiao area on July 7,
9 1937 and a later appeal by the War Minister for
10 troops to the Cabinet and the subsequent acts of
11 the Prime Minister and the Cabinet. Paragraphs 4
12 and 5 of the document set forth that the Cabinet
13 never was informed of atrocities committed in China
14 or of any plans of attack on the part of the military.

15 will receive exhibit No. 3320.

16 (Whereupon, the document above

17 referred to was marked as a defense exhibit

18 No. 3320 and received in evidence.)

19 MR. WILEY: I proceed to read defense document

20 No. 2653, exhibit No. 3320, the affidavit of SHIONO,

21 Suehiko. I omit the first parts.

22 "1. I, SHIONO, Suehiko, was Minister of Justice

23 from February 1937 to August 1939 and was concurrently

24 Minister of Communications from January to April 1939.

25 "2. On July 7, 1937 a clash of arms took

1 document 2653, the affidavit of SHIONO, Suehiko.

2 MR. WILEY: Mr. President and Members of
3 the Tribunal, on the part of the prosecution we ob-
4 ject to the admission of this document on the ground
5 if same is material it should have been brought up
6 in the general phase, and on the further ground that
7 same is repetitive. This document pertains to the
8 clash of troops in the Lukouchiao area on July 7,
9 1937 and a later appeal by the War Linister for
10 troops to the Cabinet and the subsequent acts of
11 the Prime Minister and the Cabinet. Paragraphs 4
12 and 5 of the document set forth that the Cabinet
13 never was informed of atrocities committed in China
14 or of any plans of attack on the part of the military.

R
e
i
c
h
e
r
s
&
Y
e
l
d
e
n

1 MR. LEVIN: It is quite true, Mr. President,
2 that some evidence in relation to the subject matter
3 has been offered, in fact, I offered some of it
4 myself. However, this is the testimony of a colleague
5 of the accused in the same cabinet, and is the testimony
6 of another civilian member of the cabinet, which
7 indicates the position of civilian members of the
8 cabinet, and is an answer to those counts in the
9 Indictment to the effect that there is any responsi-
10 bility on the part of this accused, so far as the
11 Lukouchiao Incident was concerned.

12 THE PRESIDENT: By a majority, the objection is
13 overruled and the document admitted on the usual terms.

14 CLERK OF THE COURT: Defense document 2653
15 will receive exhibit No. 3320.
16

17 (Whereupon, the document above
18 referred to was marked defense exhibit
19 No. 3320 and received in evidence.)

20 MR. LEVIN: I proceed to read defense document
21 No. 2653, exhibit No. 3320, the affidavit of SHIONO,
22 Suehiko. I omit the formal parts.

23 "1. I, SHIONO, Suehiko, was Minister of Justice
24 from February 1937 to August 1939 and was concurrently
25 Minister of Communications from January to April 1939.

"2. On July 7, 1937 a clash of arms took

1 place between the Japanese and Chinese troops at
2 Lukouchiao in North China. The First KONOYE Cabinet
3 was in office at that time. Two or three days after
4 the Lukouchiao Incident, War Minister SUGIYAMA made a
5 short report about the clash of arms at the cabinet
6 meeting. According to that report, the Chinese troops
7 made an illegal attack on the Japanese troops so that
8 the Japanese troops had to fight back. Minister
9 SUGIYAMA stated that troops must be dispatched to
10 protect the lives and properties of Japanese nationals
11 in the area and the small Japanese force stationed
12 there. However, Premier KONOYE and the other members
13 of the cabinet desired the Incident to be settled on
14 the spot and not allowed to expand and agreed on a
15 policy to settle the Incident locally.

16 "3. Two or three days later War Minister
17 SUGIYAMA submitted that we dispatch a fairly large
18 force at once for unless we do so our troops stationed
19 in the area and the lives and properties of Japanese
20 nationals would be endangered. The Premier and the
21 other members of the Cabinet were of the opinion that
22 if the dispatch of troops was necessary to protect the
23 lives and interests of Japanese and the Japanese troops
24 already there, then it cannot be helped, but insisted
25 that even if troops were dispatched, the Incident

1 should be settled locally and the Japanese troops with-
2 drawn as soon as the Incident was settled. They request-
3 ed the dispatch of troops be limited to the barest
4 minimum for the dispatch of a large force might bring
5 about a major clash between the Japanese and the Chinese.
6 As War Minister SUGIYAMA was of the same opinion, the
7 Cabinet decided to recognize the dispatching of troops.

8 "4. During the First KONOYE cabinet, the
9 cabinet members were not informed, either at the
10 cabinet meetings or elsewhere about the acts of atrocity
11 that were committed in China. No report of such acts
12 were printed in the newspapers. I do not know whether
13 there were any protests from foreign countries, but
14 if there were, such protests were never brought to the
15 attention of the cabinet. The Panay and Ladybird
16 Incidents were reported to the cabinet, but they were
17 reported as having been inevitable or was accidental.
18 I was told that compensations for these Incidents were
19 paid to the United States and Great Britain and the
20 matters were satisfactorily settled.

21 "5. The cabinet was never consulted about
22 plans and strategies of war. We were not even informed
23 about the battles beforehand, nothing about the attack
24 on Nanking, for instance."

25 You may cross-examine.

1 THE PRESIDENT: Mr. Wiley.

2 MR. WILEY: May it please the Tribunal, there
3 will be no cross-examination.

4 MR. LEVIN: May the witness be released upon
5 the usual terms, your Honor?

6 THE PRESIDENT: He is released accordingly.

7 (Whereupon, the witness was excused.)

8 MR. LEVIN: We now call the witness USAMI,
9 Uzuhiko, who will testify by defense document No. 2482.

10 - - -

11 U Z U H I K O U S A M I, called as a witness on be-
12 half of the defense, being first duly sworn,
13 testified through Japanese interpreters as follows:

14 DIRECT EXAMINATION

15 BY MR. LEVIN:

16 Q Will Captain Van Meter kindly hand the witness
17 defense document No. 2482?

18 (Whereupon, a document was handed to
19 the witness.)

20 Q Will you please state your name, address and
21 occupation?

22 A My name is USAMI, Uzuhiko, and my present
23 address is No. 616 Koenji, 4-Chome, Suginami-ku. At
24 present I have no occupation.

25 Q Does your signature and seal appear on the
document?

1 THE PRESIDENT: Mr. Wiley.

2 MR. WILEY: May it please the Tribunal, there
3 will be no cross-examination.

4 MR. LEVIN: May the witness be released upon
5 the usual terms, your Honor?

6 THE PRESIDENT: He is released accordingly.

7 (Whereupon, the witness was excused.)

8 MR. LEVIN: We now call the witness USAMI,
9 Uzuhiko, who will testify by defense document No. 2482.

10 - - -

11 U Z U H I K O U S A M I, called as a witness on be-
12 half of the defense, being first duly sworn,
13 testified through Japanese interpreters as follows:

14 DIRECT EXAMINATION

15 BY MR. LEVIN:

16 Q Will Captain Van Meter kindly hand the witness
17 defense document No. 2482?

18 (Whereupon, a document was handed to
19 the witness.)

20 Q Will you please state your name, address and
21 occupation?

22 A My name is USAMI, Uzuhiko, and my present
23 address is No. 616 Koenji, 4-Chome, Suginami-ku. At
24 present I have no occupation.

25 Q Does your signature and seal appear on the
document?

1 A Yes.

2 Q Are the contents of the document true and
3 correct?

4 A Yes.

5 MR. LEVIN: I now offer in evidence defense
6 document No. 2482, the affidavit of USAMI, Uzuhiko.

7 THE PRESIDENT: Brigadier Quilliam.

8 BRIGADIER QUILLIAM: May it please the Tribunal,
9 the prosecution objects to the introduction of this
10 affidavit as a whole. We object on two main grounds,
11 the first being that this evidence should have been
12 introduced, if at all, in the general phase of the case.
13 The affidavit deals solely with the constitution,
14 the objects and the scope of operations of the North
15 China Development Company. The general character of
16 the evidence can, it is suggested, be seen at a glance,
17 but it is confirmed when it is realized that the name
18 of the defendant KAYA is not mentioned or referred to
19 once.
20

21 The second ground of objection is that the
22 document is grossly repetitive. The prosecution's
23 evidence contains, it is submitted, everything that is
24 contained in this document and in other documents pro-
25 posed to be submitted about this company. In particu-
lar, prosecution exhibit 460-A contains practically

1 everything that is contained in this affidavit. It
2 is suggested that it is quite unnecessary to have the
3 prosecution evidence confirmed by the defense by this
4 document.
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 MR. LEVIN: First, generally, may it please
2 the Tribunal, we are not limited by the prosecution's
3 evidence, that is, as to the character of proof that
4 we desire to offer; and, on the motion for dismissal
5 especially, the argument was made by the prosecution
6 that on August 14, 1939, Mr. KAYA became the president
7 of the North China Development Company so that his
8 action and conduct as president of that company be-
9 comes an integral part of this defense. Of all the
10 presidents and directors of the China Development
11 Company Mr. KAYA is the only one who was indicted;
12 and as this witness was intimately connected with the
13 North China Development Company, we believe that the
14 detailed evidence of the conduct of the business of
15 that company by one who was also president of that
16 company and who was not indicted is pertinent in his
17 defense.
18

19 THE PRESIDENT: Does it modify the prosecu-
20 tion's evidence about this company in any material way?

21 MR. LEVIN: I cannot say that it modifies it,
22 Mr. President, but I do believe it supplements it.

23 THE PRESIDENT: It is difficult for us to
24 check up. We would waste more time doing that than
25 admitting the document and having it read.

You are not sure what is new and what is not?

1 MR. LEVIN: I cannot point out with exact
2 certainty, may it please the Court, but the second
3 paragraph, fifth paragraph, the seventh paragraph,
4 the sixth paragraph, which is a very short one, I
5 think supplement very fully the evidence which was
6 offered by the prosecution.

7 BRIGADIER QUILLIAM: May I be permitted to--

8 THE PRESIDENT: By a majority the objection
9 is sustained and the document rejected.

10 MR. LEVIN: May the witness be released on
11 the usual terms?

12 THE PRESIDENT: He is released accordingly.

13 (Whereupon, the witness was excused.)

14 MR. LEVIN: I now offer in evidence defense
15 document No. 2427.

16 This document is a directive of the Prime
17 Minister to the North China Development Company as to
18 its duties. It is not our purpose to read the entire
19 document but simply to draw the attention of the
20 Tribunal that the company was, and especially the
21 president, only acting for and at the direction of
22 the Prime Minister. Our purpose is to show that the
23 functions performed by Mr. KAYA were those performed
24 purely in an administrative capacity.
25

THE PRESIDENT: Brigadier Quilliam.

1 BRIGADIER QUILLIAM: May it please the
2 Tribunal, we object to the introduction of this
3 document on the same grounds as I urged in respect
4 to the previous document and on the additional one
5 that it is quite irrelevant and immaterial to the
6 issues in this case. It is purely general. The
7 only feature of the document appears to be the fact
8 that the Prime Minister has control, which has al-
9 ready been proved by the prosecution.

10 MR. LEVIN: It is only our purpose,
11 Mr. President, to call attention to various portions
12 of the document. It is not our intention to read it
13 at all.

14 THE PRESIDENT: The objection is sustained
15 and the document rejected.

16 MR. LEVIN: We now offer defense document
17 No. 2658, the affidavit of the witness OGAWA, Yataro.

18 - - -
19 Y A T A R O O G A W A, called as a witness on
20 behalf of the defense, being first duly sworn,
21 testified through Japanese interpreters as follows:

22 DIRECT EXAMINATION

23 BY MR. LEVIN:

24 Q Will you please state your name, address and
25 occupation?

1 A My name is OGAWA, Yataro; my present address:
2 419 Daita, 1 chome, Setagaya-ku, Tokyo.

3 Q Captain Van Meter will hand you defense
4 document No. 2658 and will you state whether or not
5 your signature and seal appear thereon?

6 A Yes.

7 Q Are the contents of the document true and
8 correct?

9 A Yes, both true and correct.

10 MR. LEVIN: I now offer in evidence defense
11 document No. 2658, the testimony of the witness OGAWA,
12 Yataro.

13 THE PRESIDENT: Brigadier Quilliam.

14 BRIGADIER QUILLIAM: May it please the
15 Tribunal, we object to the introduction of this affi-
16 davit on the same grounds as were urged in respect to
17 the two previous documents. It is solely concerned
18 with the North China Development Company and repeats
19 a good deal of what was contained in the first affi-
20 davit rejected, that of USAMI.

21 THE PRESIDENT: On page 5 there is something
22 which the president, KAYA, is said to have remarked
23 at a company meeting.

24 BRIGADIER QUILLIAM: Oh, yes, sir; I had for-
25 gotten that part. That, I suggest, is a platitude

1 which should never have been included in the affi-
2 davit. It certainly does not increase its strength.

3 THE PRESIDENT: It purports to show his
4 attitude toward the Chinese people.

5 MR. LEVIN: The purpose of this testimony
6 is to show not only the activities of the North China
7 Development Company in addition to being under the
8 direction of the Prime Minister but that they were
9 subject to the China Affairs Board. There is no evi-
10 dence in the record as to his attitudes in relation
11 to what appears in paragraph 9 on page 4, and also,
12 it seems to me, that the evidence as to the statements
13 that Mr. KAYA made as president of the Development
14 Company are pertinent in this case.

15 THE PRESIDENT: On page 4 at the end of para-
16 graph 7 there is another reference to his attitude
17 toward young Chinese receiving technical education.
18 They are very small matters but they could be relevant
19 and yet immaterial.

20 By a majority the objection is sustained and
21 the document rejected.

22 MR. LEVIN: May the witness be released on
23 the usual terms?

24 THE PRESIDENT: He is released accordingly.

25 (Whereupon, the witness was excused.)

1 MR. LEVIN: We offer in evidence defense
2 document No. 2611, the evidence of the witness
3 ISHIWATARI, Sotaro.

4 THE PRESIDENT: What has happened to 1416?

5 MR. LEVIN: Oh, that was withdrawn,
6 Mr. President.

7 - - -

8 S O T A R O I S H I W A T A R I, recalled as a
9 witness on behalf of the defense, having been
10 previously sworn, testified through Japanese
11 interpreters as follows:

12 THE PRESIDENT: You are still on your
13 former oath.

14 MR. LEVIN: Will Captain Van Meter kindly
15 hand the witness defense document No. 2611?

16 DIRECT EXAMINATION

17 BY MR. LEVIN:

18 Q Does your signature and seal appear on this
19 document?

20 A Yes.

21 Q Are the contents of same true and correct?

22 A Yes, true and correct.

23 MR. LEVIN: I now offer in evidence defense
24 document No. 2611, the affidavit of the witness
25 ISHIWATARI, Sotaro.

1 MR. LEVIN: We offer in evidence defense
2 document No. 2611, the evidence of the witness
3 ISHIWATA, Sotaro.

4 THE PRESIDENT: What has happened to 1416?

5 MR. LEVIN: Oh, that was withdrawn,
6 Mr. President.

7 - - -

8 S O T A R O I S H I W A T A, recalled as a
9 witness on behalf of the defense, having been
10 previously sworn, testified through Japanese
11 interpreters as follows:

12 THE PRESIDENT: You are still on your
13 former oath.

14 MR. LEVIN: Will Captain Van Meter kindly
15 hand the witness defense document No. 2611?

16 DIRECT EXAMINATION

17 BY MR. LEVIN:

18 Q Does your signature and seal appear on this
19 document?

20 A Yes.

21 Q Are the contents of same true and correct?

22 A Yes, true and correct.

23 MR. LEVIN: I now offer in evidence defense
24 document No. 2611, the affidavit of the witness
25 ISHIWATA, Sotaro.

1 THE PRESIDENT: Admitted on the usual
2 terms.

3 CLERK OF THE COURT: Defense document
4 No. 2611 will receive exhibit No. 3321.

5 (Whereupon, the document above
6 referred to was marked defense exhibit
7 No. 3321 and received in evidence.)

8 MR. LEVIN: I read defense document No. 2611,
9 exhibit 3321, omitting formal parts:

10 "I, ISHIWATA, Sotaro, served as Vice-
11 Minister of Finance during the period KAYA, Okinori
12 was Minister of Finance in the First KONOYE Cabinet
13 from June, 1937 to May, 1938. During this period,
14 I did not hear or read about any Five-Year Plan for
15 essential industries or any Five-Year Plan for
16 Ammunition Industry said to have been made by the
17 War Ministry. Needless to say, the Ministry of
18 Finance did not make any reference nor take into
19 consideration any such plans or parts thereof.

20 "On this 19th day of September, 1947.

21 "At Tokyo."

22 THE PRESIDENT: Is there any cross-examina-
23 tion?

24 MR. WILEY: May it please the Tribunal, in
25 regard to this matter, we refer the Tribunal to

1 THE PRESIDENT: Admitted on the usual
2 terms.

3 CLERK OF THE COURT: Defense document
4 No. 2611 will receive exhibit No. 3321.

5 (Whereupon, the document above
6 referred to was marked defense exhibit
7 No. 3321 and received in evidence.)

8 MR. LEVIN: I read defense document No. 2611,
9 exhibit 3321, omitting formal parts:

10 "I, ISHIWATARI, Sotaro, served as Vice-
11 Minister of Finance during the period KAYA, Okinori
12 was Minister of Finance in the First KONOYE Cabinet
13 from June, 1937 to May, 1938. During this period,
14 I did not hear or read about any Five-Year Plan for
15 essential industries or any Five-Year Plan for
16 Ammunition Industry said to have been made by the
17 War Ministry. Needless to say, the Ministry of
18 Finance did not make any reference nor take into
19 consideration any such plans or parts thereof.

20 "On this 19th day of September, 1947.

21 "At Tokyo."

22 THE PRESIDENT: Is there any cross-examina-
23 tion?
24

25 MR. WILEY: May it please the Tribunal, in
regard to this matter, we refer the Tribunal to

1 exhibit No. 2227, page 15891 of the transcript,
2 and exhibits 841 and 842, pages of the transcript,
3 8261-8264.

4 There will be no cross-examination.

5 MR. LEVIN: May the witness be excused
6 on the usual terms?

7 THE PRESIDENT: He is excused accordingly.

8 (Whereupon, the witness was excused.)

9 THE PRESIDENT: We will adjourn now until
10 half-past nine on Monday morning.

11 (Whereupon, at 1600, an adjournment
12 was taken until Monday, 13 October 1947, at
13 0930.)
14

15 - - -
16
17
18
19
20
21
22
23
24
25

1 exhibit No. 2227, page 15891 of the transcript,
2 and exhibits 841 and 842, pages of the transcript,
3 8261-8264.

4 There will be no cross-examination.

5 MR. LEVIN: May the witness be excused
6 on the usual terms?

7 THE PRESIDENT: He is excused accordingly.

8 (Whereupon, the witness was excused.)

9 THE PRESIDENT: We will adjourn now until
10 half-past nine on Monday morning.

11 (Whereupon, at 1600, an adjournment
12 was taken until Monday, 13 October 1947, at
13 0930.)

14 - - -
15
16
17
18
19
20
21
22
23
24
25